

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

RONALD W. LOHR, JR., )  
Plaintiff, )  
 )  
v. ) No. 3:07-CV-31  
 ) Phillips  
ATMOS ENERGY CORP., )  
Defendant. )

MEMORANDUM AND ORDER

This is an action for age discrimination brought under the Age Discrimination in Employment Act, 29 U.S.C. § 261 *et seq.* Plaintiff Lohr alleges that defendant Atmos Energy discriminatorily discharged him because of his age. Atmos Energy denies plaintiff's allegations and states that plaintiff was discharged because he failed to comply with the requirements of his Performance Improvement Plan. Currently pending is the motion for summary judgment of Atmos Energy.

The parties have filed extensive briefs pertaining to the motion for summary judgment in which they have fully briefed all of the issues and submitted record evidence in support of the parties positions. The court has reviewed the briefs and evidence submitted, and does not feel that oral argument is necessary. Therefore, Atmos Energy's motion for oral argument [Doc. 28] is **DENIED**.

Upon a careful review of the record, the court finds that there are multiple issues of material fact which remain to be determined at trial including: (1) whether age was a determining factor in plaintiff's termination; and (2) whether plaintiff was replaced by a younger individual. Accordingly, Atmos Energy's motion for summary judgment [Doc. 25] is **DENIED**.

The parties will prepare the case for trial.

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge